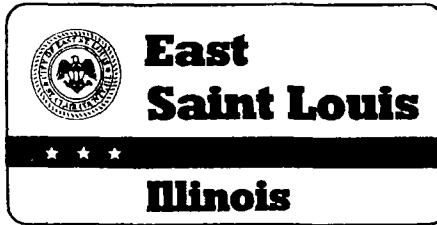


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EPA Region 5 Records Ctr.



293124

CITY CLERK'S CERTIFICATE

**STATE OF ILLINOIS,
ST. CLAIR COUNTY
CITY OF EAST ST. LOUIS,**

I, Alzada Christian-Carr

CITY CLERK FOR THE CITY OF EAST ST. LOUIS, ILLINOIS, DO HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS A TRUE AND CORRECT COPY OF _____

An Ordinance prohibiting the use of Groundwater as a potable water supply; instituted to protect the safety, health and welfare of local residents and provide protective covenants to facilitate the redevelopment and re-use of property in the City of East St. Louis

PASSED: November 13, 1997 By The Board of Councilmen and Mayor Gordon D. Bush

And I Further Certify That the Original

Ordinance

Of Which The Foregoing Is A Certified Copy, Is By Law Intrusted To My Custody For Safe Keeping, And Is On File In My Office.

WITNESS My Hand And The Corporate Seal Of Said City,

This 3rd Day of February A.D. 19 98

Alzada Christian Carr

City Clerk Of East St. Louis, Illinois

ORDINANCE # 97 - 10066

AN ORDINANCE PROHIBITING THE USE OF GROUNDWATER AS A POTABLE WATER SUPPLY; INSTITUTED TO PROTECT THE SAFETY, HEALTH AND WELFARE OF LOCAL RESIDENTS AND PROVIDE PROTECTIVE COVENANTS TO FACILITATE THE REDEVELOPMENT AND RE-USE OF PROPERTY IN THE CITY OF EAST ST. LOUIS.

WHEREAS: the City of East St. Louis, St. Clair County, Illinois (the 'City'), is a duly created, organized and validly existing municipality of the State of Illinois under the 1970 Illinois Constitution (the 'Constitution') and the laws of the State of Illinois, including particularly the Illinois Municipal Code, and all laws amendatory thereof and supplementary thereto (*Chapter 65, Act 5, Illinois Compiled Statutes (1994)*; the 'Code'); and

WHEREAS: the City is a 'home rule unit' under Section 6(a) of Article VII of the Constitution and, as such, may exercise any power or perform any function pertaining to its government and affairs including, but not limited to, the power to tax and the power to incur debt, and the power to protect the health and promote the welfare of its citizens; and

WHEREAS: The City of East St. Louis may enter into a Redevelopment Plan and Planed Units Development Agreement that may be made a part of this Ordinance by reference.

Section One. Use of groundwater as a potable supply prohibited.

EXCEPT FOR SUCH USES OR METHODS IN EXISTENCE BEFORE THE EFFECTIVE DATE OF THIS ORDINANCE, The use or an attempt to use as a potable water supply, groundwater from within the corporate limits of the City of East St. Louis by the installation or drilling of wells or by any other methods is hereby prohibited.

Section two. Penalties.

Any person violating the provisions of this ordinance shall be subject to a fine of up to five hundred dollars (\$500.00) for each violation.

Section three. Definitions.

“Persons” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, or any entity, or their legal representative, agents or assigns.

“Potable water” is any water used for human or domestic consumption, including, but not limited to, water used for drinking, bathing, swimming, washing dishes, or preparing foods.

Section four. Repealer.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed insofar as they are in conflict with this ordinance.

Section five. Severability.

If any provision of this ordinance or its application to any person or under any circumstances is adjudged invalid, such adjudication shall not effect the validity of the ordinance as a whole or any portion not adjudged invalid

Section six. Effective date.

This ordinance shall be in full force and effect upon passage, approval and publication as required by law.

The City Council of the City of East St. Louis herein authorizes the Mayor and or City Manager to implement and sign any and all corresponding and necessary government regulatory documents to implement this “Ground Water Safety and Public Health Protection Ordinance, herein passed; via any and all necessary Memorandum of Understandings (MOU) already passed by City Council or deemed to be

necessary by and between the City of East St. Louis and the appropriate and or necessary Environmental Protection Agencies (i. e. The Illinois Environmental Protection Agency, IEPA; the United States Environmental Protection Agency including U. S. EPA Region V; and or the State of Illinois Department of Natural Resources (DNR), and or appropriate County Agencies and/or the Financial Advisory Authority, including the proper recording and posting of any and all material concerning this Ordinance and those Agreements and Memorandum of Understandings (MOU's) affecting this Ordinance.

BY:



GORDON D. BUSH, MAYOR

Date

SIGNED:

November 13, 1997

PASSED:

November 12, 1997

FILED:

RECORDED:

ATTEST:



ALZADA C. CARR, CITY CLERK

Explanatory Statement - Ordinance prohibiting the use of groundwater as a potable water supply (Union Bank Project)

The following is a brief description of why a Groundwater Ordinance is needed, why it has been modified, and where we are with the groundwater problem in Metro-East St. Louis, and specifically at the Union Bank site.

The City has groundwater contamination; any infiltration into the groundwater from specific contaminated soil exacerbate the problem. The state will not allow such conditions to exist for selected contaminants.

The problem. . . when the City seeks to redevelop and reuse its commercial and industrial sites, odds are some form of contaminate may likely exist. We housed many polluters of yesterday. Keep in mind, even old highway routes from the era of leaded automotive gasoline users, spewing contaminants onto the ground adjacent and along the right-of-way. This oftentimes resulted in *(Lead contaminated sites)*.

Other sites in our City may actually have been leaden with night dumping and manufacturers who processed products no longer tolerable. To reuse this land, 'someone' must comply with all federal, state and local regulations pertaining to any contaminants above Tier I level, if the site is to be reused and/or revitalized in accordance with current law.

The mechanism available in the State of Illinois for site remediation/reuse and redevelopment of Brownfields where actual contaminants exist, is to comply with the State of Illinois EPA Voluntary Clean-up Program and site remediation. This is the process the City selected, the re-utilization of the Union Bank Drive-up/Office Complex site. The guidelines call for several safeguards: Clean up and removal of contaminants; engineered barrier, mechanisms put in place to prevent any further contamination; institutional controls, etc.

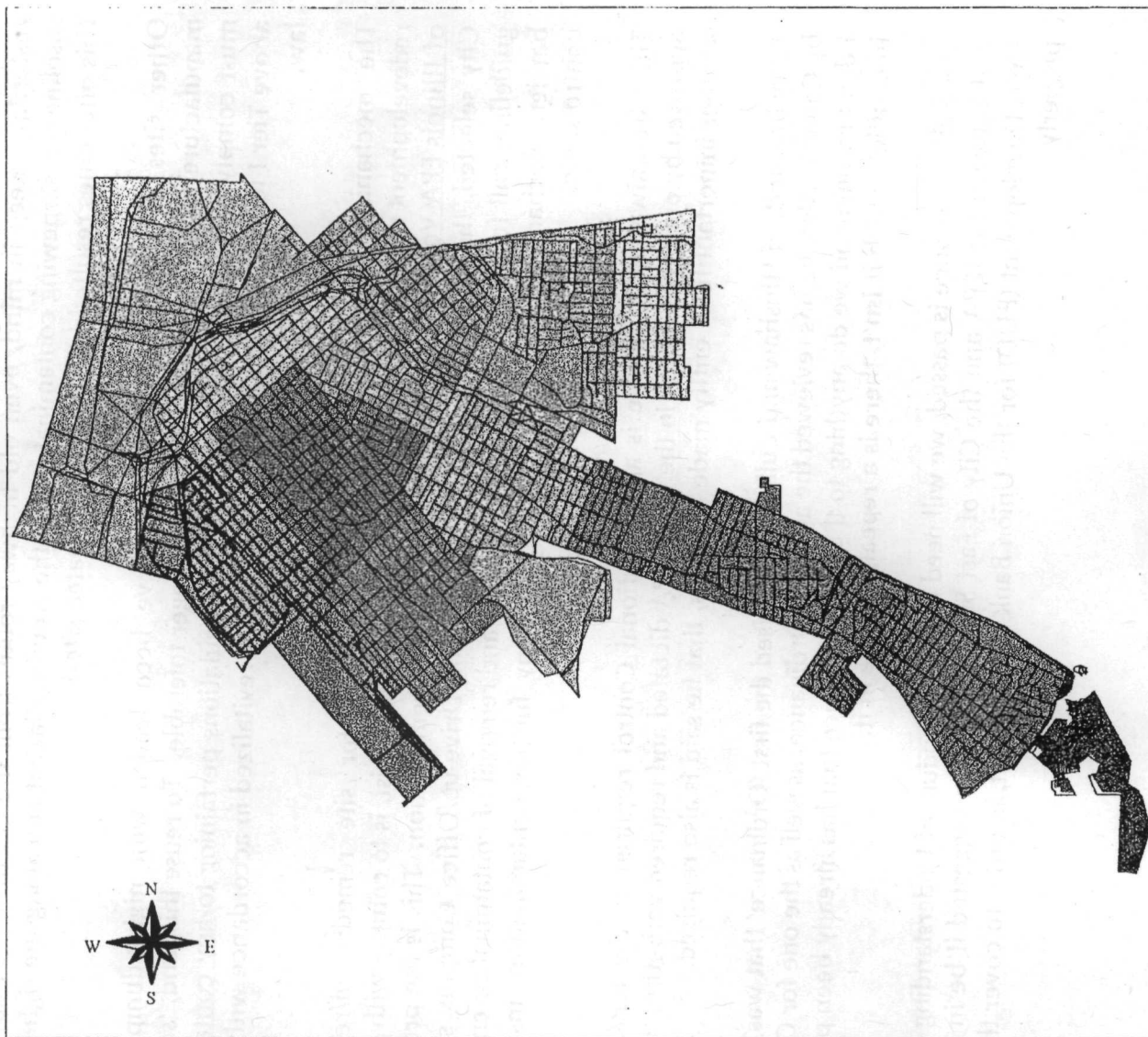
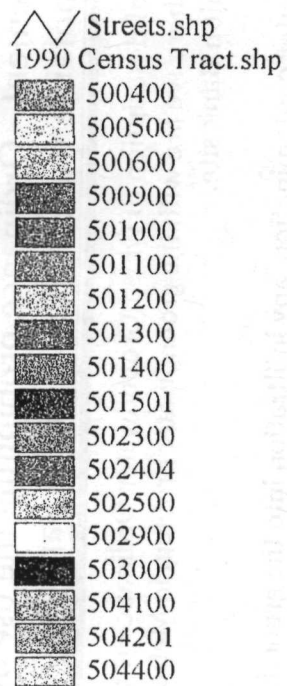
This Groundwater Ordinance is an Institutional Control required by the IEPA. It was approved by our City Council in the form IEPA dictated and required verbatim. However, another important IEPA entity made revisions, that he said is also required.

Terry Bruckert, of Hinshaw and Culbertson, revised the first 'Ordinance' that was approved by Council. Also, he has reviewed the attached Ordinance, as well as the one for CH2MHill. I don't recommend we do anything to the first Ordinance that has already been passed. If in conflict, which it isn't, there is a repealer clause in it.

Once this Ordinance is passed, we will need the Memorandum of Understanding (MOU) by and between the IEPA and the City of East St. Louis. I have suggested it be in a Planned Units Development (PUD) for the Union Bank development, in order to cover the process properly.

City of East St. Louis

City Boundary Map



Prepared
by
CDBG Operations Corporation

June 1998

MEMORANDUM OF UNDERSTANDING BETWEEN CITY OF E. ST. LOUIS, IL.
AND THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY REGARDING THE
USE OF A LOCAL GROUNDWATER OR WATER WELL ORDINANCE AS AN
ENVIRONMENTAL INSTITUTIONAL CONTROL

I. PURPOSE AND INTENT

- A. This Memorandum of Understanding ("MOU") between CITY OF E. ST. LOUIS, IL. and the Illinois Environmental Protection Agency ("Illinois EPA") is entered into for the purpose of satisfying the requirements of 35 Ill. Adm. Code 742.1015 for the use of groundwater or water well ordinances as environmental institutional controls. The Illinois EPA has reviewed the groundwater or water well ordinance of the City of EAST ST. LOUIS, IL. (Attachment A) and determined that the ordinance prohibits the use of groundwater for potable purposes and/or the installation and use of new potable water supply wells by private entities but does not expressly prohibit those activities by the unit of local government itself. In such cases, 35 Ill. Adm. Code 742.1015(a) provides that the unit of local government may enter into an MOU with the Illinois EPA to allow the use of the ordinance as an institutional control.
- B. The intent of this Memorandum of Understanding is to specify the responsibilities that must be assumed by the unit of local government to satisfy the requirements for MOUs as set forth at 35 Ill. Adm. Code 742.1015(i).

II. DECLARATIONS AND ASSUMPTION OF RESPONSIBILITY

In order to ensure the long-term integrity of the groundwater or water well ordinance as an environmental institutional control and that risk to human health and the environment from contamination left in place in reliance on the groundwater or water well ordinance is effectively managed, EAST SAINT LOUIS hereby assumes the following responsibilities pursuant to 35 Ill. Adm. Code 742.1015(i):

- A. EAST SAINT LOUIS will notify the Illinois EPA Bureau of Land of any proposed ordinance changes or requests for variance at least 30 days prior to the date the local government is scheduled to take action on the proposed change or request (35 Ill. Adm. Code 742.1015(i)(4));
- B. EAST SAINT LOUIS will maintain a registry of all sites within its corporate limits that have received "No Further Remediation" determinations from the Illinois EPA (35 Ill. Adm. Code 742.1015(i)(5));
- C. EAST SAINT LOUIS will review the registry of sites established under paragraph II. B. prior to siting public potable water supply wells within the area covered

RELEASABLE

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by the ordinance (35 Ill. Adm. Code 742.1015(i)(6)(A));

- D. EAST SAINT LOUIS will determine whether the potential source of potable water has been or may be affected by contamination left in place at the sites tracked and reviewed under paragraphs II. B. and C. (35 Ill. Adm. Code 742.1015(i)(6)(B)); and
- E. EAST SAINT LOUIS will take action as necessary to ensure that the potential source of potable water is protected from contamination or treated before it is used as a potable water supply (35 Ill. Adm. Code 742.1015(i)(6)(C)).

NOTE: Notification under paragraph II. A. above or other communications concerning this MOU should be directed to:

Manager, Division of Remediation Management
Bureau of Land
Illinois Environmental Protection Agency
P.O. Box 19276
Springfield, IL 62794-9276

III. SUPPORTING DOCUMENTATION

The following documentation is required by 35 Ill. Adm. Code 742.1015(i) and is attached to this MOU:

- A. Attachment A: A copy of the groundwater or water well ordinance certified by the city clerk or other official as the current, controlling law (35 Ill. Adm. Code 742.1015(i)(3));
- B. Attachment B: Identification of the legal boundaries within which the ordinance is applicable (certification by city clerk or other official that the ordinance is applicable everywhere within the corporate limits; if ordinance is not applicable throughout the entire city or village, legal description and map of area showing sufficient detail to determine where ordinance is applicable) (35 Ill. Adm. Code 742.1015(i)(2));
- C. Attachment C: A statement of the authority of the unit of local government to enter into the MOU (council resolution, code of ordinances, inherent powers of mayor or other official signing MOU – attach copies) (35 Ill. Adm. Code 742.1015(i)(1)).

IN WITNESS WHEREOF, the lawful representatives of the parties have caused this MOU to be signed as follows:

FOR: CITY OF EAST SAINT LOUIS, ILLINOIS
(Name of city or village)

BY: Gordon Bush MAYOR
(Name and title of signatory)

DATE: MAY 19, 1998

FOR: Illinois Environmental Protection Agency

BY: Gary P. King Manager,
(Name and title of signatory) Division of
Remediation
Management

DATE: June 29, 1998